IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Bail Appl..No. 3809 of 2007()

CRIME NO.196/07 OF NILESHWAR POLICE STATION

PETITIONER : ACCUSED

K.MADHAVAN, AGED 45 YEARS,
S/O.KAKKAT AMBU, COLLECTON AGENT, CANARA BANK
NILESHWAR, RESIDING OPPOSITE SUBRAMANIAN KOVIL
MANNAMPURAM, NILESHWAR, NELESHWAR.P.O.,
KASARAGOD DISTRICT.

BY ADV. SRI.T.K.VIPINDAS

RESPONDENTS: COMPLAINANT

THE STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM
REPRESENTING S.H.O. NILESHWAR POLICE STATION

BY PUBLIC PROSECUTOR SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.NO.3809 OF 2007

Dated this the 26th day of June, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations in a crime registered under Secs.409 and 420 of the IPC. The crime has been registered on basis of a complaint filed before the learned Magistrate and referred to the police under Sec.156(3) of the Cr.P.C. The crux of the allegations is that the petitioner, who had collected the amounts as an agent of a Chitty Company, had fraudulently bid the chitty without the knowledge, information or consent of the complainant and had appropriated such amounts without informing the de facto complainant for the purpose of the petitioner. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the allegations are totally unjustified. All the amounts collected have been remitted to the Canara Bank as seen from

the statement of accounts maintained in the Bank. The petitioner works as an agent of the Canara Bank.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the fact that the amounts have been remitted with the Canara Bank is no answer to the allegations raised against the petitioner. The allegation is that the chitty has been bid without the knowledge of the de facto complainant and the amount has been misappropriated. I find merit in the opposition of the learned Public Prosecutor. I do not find any circumstances that would justify the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. in favour of the petitioner. The Case Diary has been placed before me for my perusal.

4. In the result, this Bail Application is dismissed; but with the observation that if the petitioner surrenders before the Investigators or the learned Magistrate having jurisdiction and applies for bail, after giving sufficient prior notice to the

Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge